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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/491,747	01/27/2000	Brad S. Konia	9403-0F255US0	9009

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EXAMINER

KARMIS, STEFANOS

ART UNIT PAPER NUMBER

3624

DATE MAILED: 09/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/491,747

Applicant(s)

KONIA, BRAD S. 

Examiner

Stefano Karmis

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 1/27/2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 & 6. 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This application has been reviewed. Original claims 1-25 are pending. The rejections cited are as stated below:

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 11, 12, 13, 21, and 22 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In the situation with airline reservations and golf course tee-off times, the online auction would have to have a closing time to ensure that the auction winners could plan their attendance. There is no clear description in the provided figures or specification to explain the manner in which auctioning ceases and the fixed time period switches to the next available airline reservation or golf course tee-off time.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

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(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claims 1-8 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Davis et al. (6269361). In reference to claim 1, a “web site promoter selects a search term and influences a position within the search result list generated by that search term by participating in an online competitive bidding process” (col. 4-5, lines 65-1). Continuing, “The higher the bid the more advantageous the placement in the search result list...(col. 5, lines 35-36). In reference to claims 2 and 3, the ranking is updated after each individual bid is placed. It is also mentioned that updates are “preferably” performed in real time (col. 4, lines 64-65), however, it does not require real time and therefore leaves the alternative for a fixed time interval between checking and updating.

Davis et al. teaches the principle of applying an auction where “The higher the bid, the more advantageous the placement in the search result list that is generated when the bidded search term is entered by a searcher using the search engine (col. 5, lines 35-37) which references claims 4, 5, and 7. Davis et al. referenced claim 6 when it was mentioned, “A higher bid will result in a higher rank value (col. 6, lines 5-6). Claim 8 is referenced in “a plurality of advertisers web servers” (col. 7, line 43), who base their bidding on “search terms” requested through Internet search browsers.

4. Claim 23-25 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Alaia et al. (6216114). In reference to claim 23, Alaia discloses an auctioning system from a vendor to a

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buyer through a buyer terminal acting as a processor connected to a network and a coordinator acting as a database connected to the buyer terminal which acts as the processor (Fig. 3 & Fig. 4). Priority is established when "bid prices start high, and move downward in reverse-auction format as bidders interact...(col. 2, lines 28-30). Claim 24 is referenced when Alaia et al. provided "unit price quotes for all items in a lot" (col. 2, line 50) which merely establishes the current price for the inventory on hand. Claim 25 is referenced when "Bids placed by a supplier are broadcast to all connected bidders thereby enabling every participating bidder to see quickly the change in market conditions and begin planning their competitive responses" (col. 4, lines 11-14). This prioritizes the bids on the terminals, identifying the most current accepted bid.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al. Referring to claim 11, Davis et al. teaches in figure 1, a processor 34 electrically connected to a network 20 as well as a database 32 electrically connected to the processor 34. It would be obvious to one of ordinary skill in the art that the processor checks the bids and prioritizes them based on value while the database stores the value.

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Continuing with claims 12,13,16 and 20, it would have been obvious to someone of ordinary skill in the art that tasks such as checking and incrementing bids a plurality of times, pausing for a fixed time period between checking and incrementing, placing bids on a plurality of search terms, and checking and incrementing a plurality of bids for the first bidder on the plurality of search engines must be controlled by the processor 34 shown in figure 1.

Claims 14,15, 17-19, tasks such as the ranking of hypertext links to web pages in search results from a search engine, ranking the hypertext links higher according to their bid value, and placing the first hypertext link in higher than the second hypertext link based upon bids must be provided by a server 24 from figure 1. In the diagram it is obvious that the server 24 is electrically connected to the network 20 and it would be obvious to someone of ordinary skill that multiple search engine web servers 24 could be connected to the network 20.

6. Claims 9-10 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al. in view of Brett et al (6023685). Davis et al. teaches the bidding system but does not relate it to purchasing of airline reservations or golf course tee-off times. Brett et al. teaches a bidding process for the purchase of event tickets. It would be obvious to someone of ordinary skill in the art, that the online auctioning techniques taught by Davis et al. and Brett et al. could be applied together to purchase items such as event tickets, airline reservations, golf course tee-times, or general memorabilia.

*Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat No. 6,161,099 to Harrington et al.

U.S. Pat No. 6,199,050 to Alaia et al.

U.S. Pat No. 6,266,651 to Woolston

U.S. Pat No. 6,341,270 to Esposito et al.

U.S. Pat No. 6,408,283 to Alaia et al.

U.S. Pat No. 6,415,269 to Dinwoodie

U.S. Pat No. 6,415,270 to Rackson et al.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefano Karmis whose telephone number is (703) 305-8130. The examiner can normally be reached on M-F: 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-1113.

Respectfully Submitted

Stefano Karmis  
Art Unit 364

August 27, 2002

*Stefano Karmis*  
*A.U. 3624*